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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,465	08/31/2001	Dennis G. Hall	P287-USa1	9422

7590 01/29/2004

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CANADA

EXAMINER

LIPMAN, BERNARD

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/943,465

Applicant(s)

HALL, DENNIS G. *dhl*

Examiner

Bernard Lipman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 16-85 is/are pending in the application.
- 4a) Of the above claim(s) 16-84 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 85 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3 are rejected under 35 U.S.C. § 102(b) as being anticipated by Che et al., "Studies on Synthesis and Catalytic Activity of New Polymer Supported Chelated Titanate", Volume 6 No. 1.

Reference specifically teaches applicant's claimed polymers as can be seen at the top of page 2 wherein the chloromethylpolystyrene is used to react with the dialkyl hydroxyamine to produce the same structure as required by applicant.

2. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention

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was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4-12 and 85 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Che et al., as above.

Claims are to polymers which are identical to those disclosed by Che et al. except, in claim 2, for the specific alkyl group pendant from the styrene entity, and, for the other claims, in the polymer substrate used. In the case of claim 2 and the different alkyl groups on the styrene polymer, the prior art teaches various alkyl chloride groups on styrene polymers and the Examiner takes Official Notice of the fact that these various alkyl chloride groups on styrene polymers are known in the prior art. The use of a homolog of the specific teaching of the reference would be prima facie obvious to one of ordinary skill in the art absent evidence of unexpected results commensurate in scope to the claims. Furthermore, applicant has stated in his response of November 3, 2003 that the species requirement is not proper because "the Examiner has failed to provide any evidence of how these species are patentably distinct. In applicant's view, they are not". Applicant's stipulation that the species mentioned in the election as to both the substrate polymers and the compound being produced, specifically the difference in the

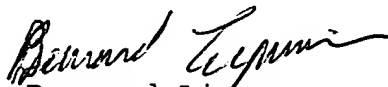
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alkyl or benzyl group on the styrene polymer, further supports the position and is an admission to the position that the species are obvious one over the other. This is also clearly true with reference to claims 4-12 wherein the polymer substrate is different and applicant has stipulated that these are merely obvious variants one over the other. The claims are, therefore, properly rejected under 35 U.S.C. § 103 as prima facie obvious from the teaching of the reference to Che et al.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernard Lipman whose telephone number is (571) 272-1105. The examiner can normally be reached on Mondays through Fridays from 7 A.M. to 4:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached on (571) 272-1114.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-0994.


Bernard Lipman
Primary Examiner
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BL:cdc
January 29, 2004